

# IDAHO Supreme Court

## JUDICIAL/ADMINISTRATIVE NEWS

JULY-AUGUST 2007

### Eismann Elected Chief



Idaho's new Chief Justice says he plans to build on past successes and continue to improve the quality and efficiency of the Idaho Judiciary.

"Overall we do a very good job," said Chief Justice Daniel Eismann, who assumed the top job in the state courts on August 1, 2007, but he adds, "I always think we can improve what we are doing and make things better. I hope to do the best I can and contribute the best I can to making things even better."

The new Chief Justice is perhaps best known across the state for his leadership and championing of drug courts and he says he wants to expand.

"I want to get more family drug courts and child abuse drug courts," Eismann said of the courts where people enter the justice system as a result of abuse or neglect. The Chief Justice said he also sees a need for further expansion of mental health, felony and DUI courts. Juvenile drug courts, Eismann said, are looking particularly promising.

"I'm convinced and it is borne out by national studies that (the drug court approach) is the best thing we have going for us" in effectively breaking the cycle of crime, incarceration and repeat offenses.

Chief Justice Eismann says he is well aware that his new role will require an effort to balance administrative and additional meeting time with keeping current on his own workload on the court. Nonetheless, he said, "I want, in the next year, to travel to each county to visit with local leaders, court personnel and judges and hear their concerns and see what we can do better."

Since winning election to the Idaho Supreme Court in 2001, Chief Justice Eismann said Idaho has experienced tremendous population growth that has produced many more cases, while judicial resources have increased only slightly.



"I think we can move to put in place some additional technical advances to increase efficiency," Eismann said. He specially mentioned an updated software system for the state's appellate courts as a part of the state's ISTARS computer system.

The new Chief says he is very much enjoying the new position and admits, "It has been kind of busy so far."

### Warren Jones named to Supreme Court



#### Justice Jones Realizes a Long-time Ambition

Idaho's newest Justice of the Supreme Court has known for close to 40 years that he wanted one day to serve as a judge. New Justice Warren Jones set that professional goal while observing another member of the Idaho Supreme Court, Chief Justice Joseph McFadden, for whom Jones clerked, from 1968-1970.

"I was really happy about it," Jones said of his appointment by Governor Butch Otter. "I had been wanting to be a judge for a long time." Justice Jones took the oath of office from Governor Otter on August 2, 2007.

Justice Jones has also observed his share of judges during a 37 year legal career that saw him spend most of his time trying every kind of case.

"I think I can," Justice Jones said when asked if he could identify what makes a good judge. "After 37 years of trying cases in the courtroom and taking 122 cases to a verdict and hundreds more that were settled along the way, I think I have learned a lot about how trials work and what is good and sometimes not so good about our system."

Now, Jones said, "I have the opportunity to serve as a Supreme Court Justice and have some direct input into how the system works and can be made to work better."



The Justice said he hopes to contribute to changes that will "make the system less wasteful. We waste a lot of time and money in litigation and I'm sure we can always work on that."

Justice Jones, who is 64 and attended the University of Chicago Law School after growing up in southeastern Idaho, said he is rapidly adjusting to the pace and solitude of his new job. "It has only been a few weeks and already I can see the incredible difference. There is very definitely an isolation factor, much more need for reading, studying, researching and (compared to a law practice) little human interaction."

## Former Chief Justice Gerald Schroeder Honored

A retirement dinner/reception for Former Chief Justice Gerald Schroeder was held on July 19, in conjunction with the 2007 Annual Meeting of the Idaho State Bar. Justice Schroeder, who retired July 31,

was honored for years of commitment and service to the legal world. Over 120 individuals attended the reception to show their respect. Music for the evening was provided by the Tamarack String Quartet.

In 1969 Justice Schroeder was appointed as an Ada County Probate Judge where he served until 1971, when he was appointed as a Judge in the Magistrate Division for the Fourth District. In 1975 Governor Andrus appointed him as District Judge in the Fourth District, where he served 19 years. On January 20, 1995, Governor Batt appointed him to the Idaho Supreme Court. The Supreme Court elected him to the position of Chief Justice for a four-year term beginning September 1, 2004. Warren Jones will serve out the remainder of Schroeder's term. In June, Governor Otter honored Chief Justice Schroeder stating that "his dedication to the judiciary and the law is a tremendous example for all to follow, and his leadership on the Judicial Council resulted in an exemplary slate of nominees."



### Judge Wood Works to Improve Bail Bond System

Fifth District Judge Barry Woods says he believes his Bail Bonds Guidelines Committee will have a package of proposed improvements in state statutes, rules and judicial district guidelines ready for Supreme Court consideration in advance of the next session of the Idaho Legislature.

Judge Wood and his committee of judges, court personnel, and representative of the bail bond industry have been working on the refinements for close to a year.

A good deal of the committee's work has focused on standardizing how surety bonds are used in Idaho and how to ensure that there are uniform statewide guidelines that do not differ from one judicial district to the next.

"Some districts currently have no guidelines, others are different from one district to the next. We need a standard approach to bail bonds

statewide; the same approach in Bonner County that we have in Owyhee County."

The bail bond efforts are just the latest in a long litany of judicial leadership that has been demonstrated by Judge Wood in his 12 years as a District Judge and his eight years as a Magistrate Judge.

Judge Wood has served four different times as the Administrative District Judge for the 5th Judicial District, and headed the Snake River Basin Adjudication Court for two years.

The adjudication court was "a great experience," Judge Wood said. "I really liked it. It was a fascinating experience. The history is fascinating. It is an important process and I just like the whole concept of water law. It was a very interesting assignment."

Judge Wood was the 2005 recipient of the Kramer Award, which is presented annually to an individual who has demonstrated skill and innovation in judicial administration in Idaho.





### Names Submitted to Governor for Supreme Court Position

The Judicial Council has submitted the following individuals listed in alphabetical order to Governor Otter as the candidates for Supreme Court Justice:

- ⚖️ **HORTON, JOEL D.**, is a District Judge of the Fourth Judicial District, Boise
- ⚖️ **HOWARD, KENNETH B.**, is a Lawyer in private practice in Coeur d'Alene
- ⚖️ **KERRICK, JUNEAL C.**, is a District Judge of the Third Judicial District, Caldwell
- ⚖️ **WILLIAMSON, DARLA S.**, is a District Judge of the Fourth Judicial District, Boise

### Names Submitted to Governor for 5th District Judge Position

The Judicial Council has submitted the following individuals to Governor Otter as candidates for the 5th District Judge position:

- ⚖️ **CRABTREE, MICHAEL R.**, is a Magistrate Judge in the Fifth Judicial District in Burley
- ⚖️ **GREENWOOD, RICHARD D.**, is a Lawyer in private practice in Twin Falls

### Judge Smith in Pocatello

An investiture for Judge Randy Smith as a Ninth Circuit Court of Appeals Judge was held in Pocatello on August 8. A special section was reserved for Idaho judges in the front seats of the Stephens Performing Art Center.



### Judge Stoker in Twin Falls

A private investiture was held on May 11 as 5th District Judge Randy Stoker was sworn in by Judge G. Richard Bevan at the Theron Ward Judicial Building in Twin Falls. A public reception was held on June 15 in the court room.



### Investitures

#### Judge Nye in Pocatello

An investiture for Judge David Nye as a District Judge for the 6th Judicial District was held July 27 at the Bannock County Courthouse in Pocatello. Light refreshments were served at the reception that followed.

#### Judge Ryan in Caldwell

Judge Thomas Ryan's investiture as a District Judge for the 3rd Judicial District was held August 17 at the Canyon County Courthouse Public Meeting Room in Caldwell.

### Judge Thomsen in Pocatello

Steven A. Thomsen was sworn in on June 29 by the Honorable Peter D. McDermott, Administrative Judge for the 6th Judicial District. The courtroom was filled with family, friends and associates from the 6th District Bar. Judge Thomsen received advice from speakers Jay Meyers, attorney; A. Bruce Larson, attorney; Hon. Gaylen L. Box, Magistrate Judge and Hon. L. Zane Gill, U.S. Administrative Law Judge. Thomsen's wife, Debbie, helped him put on his robe before he shared his thoughts with the audience.



### **New Magistrate Selected for Owyhee County**

Third Judicial District Administrative Judge Gregory M. Culet announced the selection of Dan C. Grober from Homedale, as the Magistrate Judge for Owyhee County. Judge Grober is filling the vacancy left by the Honorable Thomas J. Ryan who was appointed in July to fill the district judge position left vacant in the 3rd Judicial District by the retirement of the Honorable James C. Morfitt.

Judge Grober received his undergraduate degree from Eastern Illinois University, a graduate degree from Boise State University and his law degree from the University of Idaho. Prior to practicing law, Mr. Grober worked as a journalist, a criminal investigator and a high school English teacher. From 1989 to 1996, Mr. Grober served as Assistant Bar Counsel for the Idaho State Bar Association. Since 1996, Mr. Grober has maintained a general law practice in Homedale.

Judge Grober assumed his new duties on September 4, 2007.

### **Owen named to New 4th Judicial District Position**

Patrick H. Owen, former Ada County Deputy Prosecutor, has been named to fill a newly created district judge position in Idaho's 4th Judicial District. His position was created by the 2007 Legislature to help alleviate the heavy caseload in Idaho's most populous judicial district. Judge Owens was sworn in on August 10 at the Ada County Courthouse.

### **Tingey to succeed Judge St. Clair**

Idaho Falls, attorney Joel E. Tingey will succeed retiring 7th District Judge Richard St. Clair. Judge St. Clair administered the oath of office to his successor on August 31. Bonneville County and the 7th Judicial District Bar held a tribute for Judge St. Clair on August 31.



### **Thomas D. Kershaw sworn in as Magistrate Judge**

The 5th Judicial District held an Oath of Office Ceremony for Thomas D. Kershaw, Jr., Magistrate Judge, in Twin Falls County on August 16 in the Theron W. Ward Judicial Building in Twin Falls, Idaho. A reception was held following the ceremony.

### **ISB Family Law Section honors Trout and Howard**

Viki Howard, Children and Families in the Court Coordinator and Justice Linda Copple Trout were honored recipients of the Idaho State Bar Family Law Section Award of Distinction. The award ceremony and reception were held at the Idaho State Bar annual meeting in Boise on July 19.



### **Judge Varin's Retirement Celebration**

The 5th Judicial District held a widely attended retirement celebration for Judge Varin on May 25 in Twin Falls. The Judge's last day on the bench was May 31. Camas County also honored Judge Varin with an additional celebration.

### **Jaeger Named to NADCP Board**

Norma Jaeger, Idaho's Statewide Drug Court and Mental Health Court Coordinator, was recently elected to the Board of Directors of the National Association of Drug Court Professionals (NADCP). The NADCP is the voice of drug courts in the United States and administers drug court research as well as drug court practitioner training and drug court team training.

The association regularly interacts with Congress, the Office of National Drug Control Policy and various other cabinet agencies to coordinate drug court efforts with other drug control and substance abuse intervention efforts nationwide. The 26 member Board, chaired by Hon. Chuck Simmons, operates with 16 subcommittees.

Norma will represent the perspective of state-level coordinators and state drug court systems. Norma has provided presentations at the annual NADCP training conferences for the past three years and co-authored the association-published DWI Court Guiding Principles publication.



### **Leah Jones Retires**

After 17 years as a Clerk of the Court for Bingham County, Leah Jones has retired. A retirement party was held on July 25 at the Bingham county courthouse. Attendees included people from Bingham County and the other 9 counties within the 7th Judicial District.

The Bingham County Courthouse Courier reports that Leah plans to "catch her breath, go fishing, horseback riding, play a little golf, spend time with her grandchildren, and enjoy a more leisurely pace." Her advice to those she is leaving behind was also, "hang in there and keep up the good work."



### Judicial Ethics and Self-Represented Litigants

Today Court Assistance Offices provide great assistance for self-represented litigants to prepare and file better pleadings. However, once in court, lack of knowledge about law and procedure often leads to disappointing, and in some instances, unfair results.

Judges are often frustrated when handling cases with self-represented litigants. They are concerned that by guiding or providing assistance to these parties they will violate Canon 3 of the Idaho Code of Judicial Conduct, which requires them to act fairly and impartially when performing judicial duties. The Supreme Court's consistent ruling that person's acting pro se are to be held to the same standards and rules as those represented by attorneys only increases a judge's reluctance to provide assistance to self-represented litigants.

These concerns should not preclude a judge from making reasonable accommodations to a self represented litigant according to Cynthia Grey, who authored *Reaching Out or Overreaching-Judicial Ethics and Self-Represented Litigants*. Ms. Grey concludes that the canons of ethics do not prevent a judge from making reasonable accommodations to self-represented litigants and those accommodations might be required if a party's constitutional right of fair access to the courts is to be meaningful.

In February 2007, after years of study, debate and input, the American Bar Association adopted its newest version of the Model Code for Judicial Conduct that serves as a guide for state codes of judicial conduct. Comment No. 4 to Canon 2.2, which deals with fairness and impartiality, now states "[I]t is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard." Some courts have said a judge is required to make reasonable accommodations in certain circumstances to ensure a case is fully and fairly heard as long as there is no prejudice to the other party. *Cottrill v. Cottrill*, 631 S.E. 2d 609 (W. Va. 2006).

Responding to this changing attitude and clearer guidance on ethical limitations, states such as California have created comprehensive benchbooks to assist judges in dealing effectively with self-represented litigants, outlining the types of accommodations which should be

considered, and those which should not. Judges interested in obtaining a copy of this lengthy and comprehensive benchbook should contact Judge Dennard at [mdennard@idcourts.net](mailto:mdennard@idcourts.net).

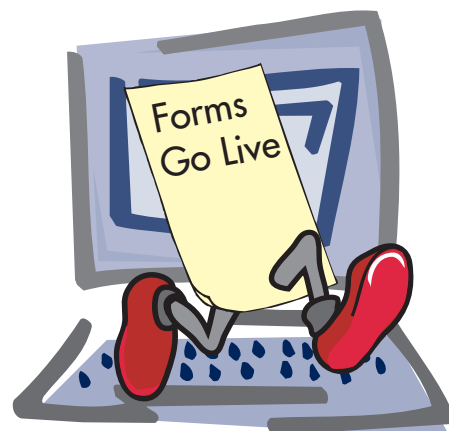
In November of 2007, Idaho will send a team of judges to a National Judicial Conference on Leadership, Education and Courtroom Best Practices in Self-Represented Litigant Cases at Harvard Law School, to examine and develop similar protocols and best practices for Idaho to consider. Curricula on this topic for future judicial education programs are currently under development.

### Forms for Judicial Consent For Minor's Abortion Approved

The court has approved a final version of the forms created to meet the requirements of I.C. Section 18-609A, which mandates an expedited procedure for a minor applying for judicial consent for an abortion. The new versions will be distributed to clerks of the court to replace the piloted versions previously in use. Copies of the new forms are available at: <http://www.courtselfhelp.idaho.gov/misc.asp>

### Interactive Version Of Court Forms Proving Popular

Recent statistics on the number of website "hits" on Interactive Court forms reflect a growing popularity of online forms over traditional hard copy versions. Interactive forms and instructions were accessed over 4,400 times in June of 2007. The most frequently visited forms were for divorce, followed by landlord/tenant, small claims, and change of name.





### **Drug & Mental Health Courts Institute Scheduled**

The Idaho Supreme Court sponsored Drug and Mental Health Courts Institute will be held January 14 and 15, 2008 in Boise.

Idaho Drug Court and Mental Health Court judges and other team members should mark their calendars to attend this multidisciplinary institute to improve court practices, learn evidence based practices and exchange information and views. This outstanding training will appeal to a wide variety of professionals, including district and magistrate judges, drug court coordinators, drug court teams, probation officers, treatment providers, prosecuting attorneys, public defenders and many others. All drug court and mental health court judges and administrators should plan to attend the institute.

**THE ANNUAL DISTRICT JUDGES SEMINAR WILL IMMEDIATELY FOLLOW THE INSTITUTE** in Boise, commencing Wednesday morning, January 16 through Friday, January 18, 2008.

Registration materials and the agenda for the institute will be available in November, 2007. General questions and Institute faculty and agenda recommendations can be directed to Judge Lowell Castleton, Judicial Education Director, at [lcastleton@idcourts.net](mailto:lcastleton@idcourts.net),

or 208-947-7417 or Kim Woods, Administrative Assistant for Judicial Education, [kwoods@idcourts.net](mailto:kwoods@idcourts.net), or 208-947-7417.

### **Funding Available For Judges To Attend Traffic Court Seminar**

Funding has been obtained through the Idaho Transportation Department to send six (6) magistrate judges to the ABA Judicial Division Traffic Court Seminar in Seattle, Washington, October 9-12, 2007.

The Traffic Court Seminar features sessions on:

- ⚖ Pre-Trial/Pre-Sentence Release Issues
- ⚖ Handling Pro Se Litigants
- ⚖ Traffic Court
- ⚖ Sovereign Citizen



Other topics that will be addressed include a mock DUI trial and a Technology Panel assessing electronic technology relating to traffic cases. Any judges interested in attending should email Judge Lowell Castleton promptly at [lcastleton@idcourts.net](mailto:lcastleton@idcourts.net), or call at 208-947-7417.



### **Child Protection Committee ISTARS CP Coversheets**

The Rules subcommittee of the Child Protection Committee discussed the ISTARS child protection coversheet during its July 31 meeting. The coversheet is currently being redesigned to be more hearing specific and user friendly. The subcommittee also considered whether a court rule is needed to request the use of the child protection cover sheet.

### **Reassessment**

In 2000, the Child Protection Committee conducted a statewide assessment of the court's role in Idaho's child protection process.

The results of that assessment prompted many changes in Idaho's child protection process over the past six years.

In April 2007, the Child Protection Committee, working with Boise State University, began a year long reassessment to measure effectiveness of the changes in Idaho's child protection process and identify future areas of interest for the Child Protection Committee. The reassessment will include statewide surveys of key stakeholders, five site visits, file reviews and observation of court hearings. The final report will be released at the Children and Families Institute in May 2008.

Please send your comments and suggestions for improving the cover sheet to Debra Alsaker-Burke at [dburke1@cableone.net](mailto:dburke1@cableone.net) or 334-5993.





## Part I: Using Reports for Informed Case Maintenance and Clean Up

ISTARS has several internal reports which the clerks can print at any time and which were designed to be used for case maintenance and clean up.

One of these reports is found by going to "Reports," then to "External Agencies," then to "Idaho Supreme Court Reports."

Found in the listing of reports there is a report called the "Active Pending Cases by Judge Report" (See Screen Shot Below).

**Idaho Supreme Court Reports - District 7 County 17 (Clark)**

The Idaho Supreme Court Reports are a series of different reports related to caseload statistics and time standards.

Begin date: **06/01/2007**  
End date: **06/30/2007**

☐ All reports  
☐ Caseload by date  
☐ Detail caseload by date  
☐ Detail caseload by judge  
☐ Combined caseload by date

Active pending cases:  
☒ By judge  
☐ By type  
☐ By judge and type

Print only cases exceeding time standards: ☐  
 Exclude currently closed cases: ☐

Delay report: ☐

This report is in the same format as one of the reports that the Judges receive monthly from the Administrative Office, and was designed to assist them in tracking their current case load displaying the "age days" for the case.

The printed report looks like this: (Sample only) and will most likely be familiar to you.

Date: 07/03/2007  
Time: 06:55 AM  
Page 1 of 3

Seventh Judicial District Court - Clark County  
Idaho Supreme Court Reports  
Active Pending Cases by Judge  
District 7 - County 17 (Clark)  
As of 06/30/2007

User: FULLCOURT

Judge: 354 Penny J Stanford

Case #	Court Type	Age (days)	Last ROA	Next Hearing Scheduled	Flag	Status	Status Date
<b>Part 1: Cases Exceeding "Time Standard"</b>							
CR-2005-0000374	M Medem: OTHER	222	03/22/2007	Stipulation To Continue Trial		*OTS Pending	11/20/2006
State of Idaho vs. MYRON C. LANGENBERGER							
CR-2007-0000026	M Medem: OTHER	128	04/26/2007	Continued (Jury Trial)		*OTS Pending	02/22/2007
State of Idaho vs. Jeff S. Jacobson							
CR-2007-0000074	M Medem: OTHER	102	04/20/2007	Notice Of Hearing		*OTS Pending	03/29/2007
State of Idaho vs. ISRAEL SHADRACH ROUNDT							
CV-2005-0000002	M Other Claims	916	04/11/2007	Writ Issued		*OTS Pending	01/30/2006
Capital One Bank vs. John Abbott							
CV-2005-0000007	M Other Claims	450	11/29/2006	Change Assigned Judge		*OTS Pending	04/09/2006
Medical Recovery vs. Teofila Gomez							
<b>Part 2: All Other Pending Cases</b>							
2007-0000009	M Small Claims	79	04/25/2007	Acknowledgement Of Service		ATS Pending	04/12/2007
East Idaho Credit Union vs. Oscar Melchor							
Total for Judge: 354 Penny J Stanford: 22 cases.							

Date: 07/03/2007  
Time: 06:58 AM  
Page 3 of 3

You will note when you examine the report that there is a "part 1" and a "part 2" listed for each judge.

"Part 1" will list all of the cases which are exceeding the recommended time standard set for the case type. Flag status on these will be **OTS - Over Time Standards**.

"Part 2" will list "All Other Pending/Reopened Cases" for a given judge. Flag status on these if they are **"Approaching Time Standards" will be ATS**. Otherwise, flag status will be blank.

The value of the clerk, in reviewing this report monthly, is that it will at a **quick glance** tell you exactly what cases each judge "has" at the status of pending or reopened, the last ROA of that case, and the next hearing scheduled for the case, the flag, status and status date.

With this knowledge the clerk can then review the cases listed each month (preferably before the end of the month) and make sure that the cases are still open. Occasionally in reviewing this list you may determine that a case should have been closed but was not for some reason. The clerk can then take actions to close the case.

If the case is approaching time standards and is still open, then the clerk can use this information to make sure that something is set for the case, or pull the case file and provide it to the judge for him/her to review to determine what action should next happen (i.e. a status hearing set).

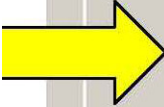
Pending cases of certain types "age," other cases do not age.





**Criminal and Juvenile** cases “age against time standards” beginning with the first appearance date which is coded in by the clerks by using the “**ARRN**” or “**ADNY**” ROA codes, most often when entered as hearing results. When these codes are posted by the clerk to the ROA, the system “plants” a date in the first appearance date on the case front screen. This process, for criminal and juvenile cases, begins the aging process.


In the example shown at right the case started aging on 11/20/2006 but most likely would have been filed earlier. It is the first appearance date on the case front screen which tells you when the criminal/juvenile case begins to age.



Defendant	Agreement
Defendant 1 of 1	
<b>Doe, John C</b>	
<b>Attorney: Manwaring, Kipp L.</b>	
Speedy Trial date	00/00/0000
First Appearance	11/20/2006
Custody status:	None
FPC Number:	
Bond ordered:	00/00/0000
Probation officer:	[none]

Some civil cases “age against time standards” beginning with the filing date. Other civil cases do not have a time standard. One example of those would be CPA cases.

Cases which do not “age against time standards” would never move from part 2 to part 1 of a Judge’s “Active Pending Cases By Judge” report, but would always be listed on part 2 as a pending case as long as the status of pending or reopened.



ISTARS for Seventh Judicial District Court - Clark County	
File Search Cases Payments Scheduling Import/Export Window	
Exit Names F2 Charge Entry Cit. Entry Cit. Search Criminal F3 Civil F4	
<b>Civil Case (Small Claims)</b>	
Case:	CV-2007-0000007
Judge:	Penny J Stanford
Filing date:	04/12/2007 File location:
Case subtype:	Small Claims
Jurisdiction:	Magistrate
Comment:	
Previous case:	

Date: 7/6/2007  
Time: 12:33 PM  
Page 1 of 1

**Fifth Judicial District Court - Twin Falls County**  
Idaho Supreme Court Reports  
Active Pending Cases by Type  
District 5 - County 42 (Twin Falls)  
As of 7/5/2007

User: ISC

Type of Case	Court	Adopted Standard Days	Exceeding Standard Cases	Percent	Active Cases Average Age
All Civil Cases	District	540	24	11 %	344
Civil (Personal Injury / Other Claims)	Magistrate	180	232	38 %	188
Domestic Relations	Magistrate	180	50	39 %	186
Child Support Proceedings	Magistrate	90	3	100 %	208
Small Claims	Magistrate	90	171	100 %	158
Felony (Magistrate)	Magistrate	30	39	100 %	145
Felony (District)	District	150	133	63 %	195
Misdemeanor	District	90	1	100 %	534
Misdemeanor	Magistrate	90	475	100 %	163
Infraction	Magistrate	60	31	100 %	140
Juvenile	Magistrate	90	68	100 %	151
*** County Totals ***			1227	63 %	194

District Court Appeals and reopened cases (except for Child Support Proceedings) are excluded from these totals.  
Cases not assigned to a judge, such as infractions, are also excluded.

If you want to know the adopted time standard # of days for case types, you can go to the same menu as outlined above and print the “Active Pending Cases By Type” report, which will tell you this information. Screen shot of this listed at left.





## Part II: Using Reports to Make Sure That Cases Are Assigned to the Correct Judges

Each month the Administrative Office of the Supreme Court produces a batch of reports which they distribute to the Trial Court Administrators and judges.

**Each month, as they produce the reports, the above mentioned reports will turn up listings of cases for judges which are known to no longer be active judges (deceased or retired judges).**






The challenge is to find out which counties have these cases “open” and to then ask the clerks in the counties to close the cases OR to reassign them to an active judge.

As you review the “Active Pending Cases by Judge” report, you will find included in your report, listings for **judges who are no longer active**. Please use this report to reassign those cases to the correct judge.

To assist you with this, remember that there is the capability of reassigning cases in “Batch” options to a new judge.

From the main case processing screen if you click on “Cases,” then “Batch Processes,” then “Judge Reassignment” the following screen will “pop up.”

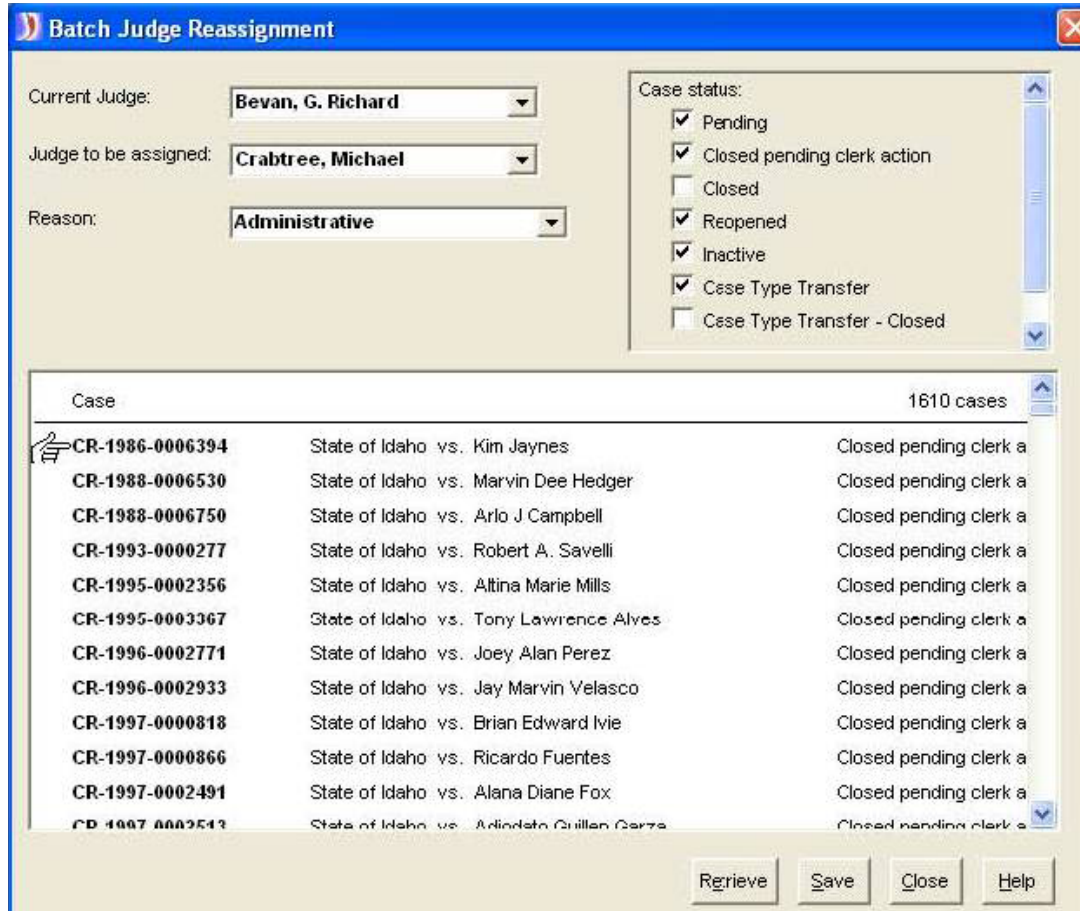
Select the “current judge” or judge which you want to “take the cases off of their case load,” and the “Judge to be assigned” or new judge, and select the statuses that you want to move. We recommend that you change the following list:

-  Pending
-  Closed pending clerk action
-  Reopened
-  Inactive
-  Case Type Transfer

You will also enter the reason for reassignment. You then click on retrieve. So doing will bring up a listing of cases which are assigned to the current judge which may be reassigned to the new judge.

You then “highlight” the cases that you want to move. To select the entire listing, you click on the first entry then scroll to the bottom of the list and while holding down the shift key, click on the last entry. **OR** you may click each case that you want to transfer to this judge, and transfer that batch, and then recall the listing again and transfer the remaining case(s) to a different judge(s)

When you click “Save,” the cases will be move in a “batch” from the inactive or retired judge to the current judge.



Case	State of Idaho vs. [Name]	Status
CR-1986-0006394	State of Idaho vs. Kim Jaynes	Closed pending clerk a
CR-1988-0006530	State of Idaho vs. Marvin Dee Hedger	Closed pending clerk a
CR-1988-0006750	State of Idaho vs. Arlo J Campbell	Closed pending clerk a
CR-1993-0000277	State of Idaho vs. Robert A. Savelli	Closed pending clerk a
CR-1995-0002356	State of Idaho vs. Altina Marie Mills	Closed pending clerk a
CR-1995-0003367	State of Idaho vs. Tony Lawrence Alves	Closed pending clerk a
CR-1996-0002771	State of Idaho vs. Joey Alan Perez	Closed pending clerk a
CR-1996-0002933	State of Idaho vs. Jay Marvin Velasco	Closed pending clerk a
CR-1997-0000818	State of Idaho vs. Brian Edward Ivie	Closed pending clerk a
CR-1997-0000866	State of Idaho vs. Ricardo Fuentes	Closed pending clerk a
CR-1997-0002491	State of Idaho vs. Alana Diane Fox	Closed pending clerk a
CR-1997-0002513	State of Idaho vs. Adriana Guillen Garza	Closed pending clerk a

**Note: Just a reminder that changing the judge on a case will not automatically change the judge for hearings set. If the judge you are removing has hearings scheduled in the future, you will want to use batch reassignment (or manually change) to change to the new judge for the hearing dates OR you will need to print a calendar of the “old judge” and the “new judge.”**

# New Orders & Rule Changes

For Current New Orders or Rule Changes, go to <http://www.isc.idaho.gov/rulesamd.htm>

## Interim Procedure Available

On June 29, 2007, a memorandum was issued regarding interim procedures for SCR 109, SB 1149 and SB1142. The procedures are available online at <http://www.isc.idaho.gov/legislat.htm> to assist in the implementation of SB1142 and SB1149.

**SCR109:** Effective January 1, 2008. The Office of Drug Court Policy and the Inter-Agency Committee on Substance Abuse has authorized the use of GAIN in all State agencies and Departments as a common assessment tool. More information on SCR 109 can be found at: <http://www3.state.id.us/oasis/SCR109.html>

**S1149:** Effective July 1, 2007. The Department of Health and Welfare and Correction adopted new procedures regarding the mental health and substance abuse assessment and treatment for adult felony offenders to assist with a timely and smooth transition during the interim process of the GAIN assessment period. More information about implementing SB 1149 can be found at: <http://www3.state.id.us/oasis/S1149.html>

**S1142:** Effective July 1, 2007. Until GAIN is implemented statewide, new procedures are available to aid juvenile court judges in new sentencing options. More information regarding the new sentencing options relating to substance abuse assessments and treatment for juvenile offenders is available at: <http://www3.state.id.us/oasis/S1142.html>

## I.R.C.P. 45 Amendment

Effective July 23, 2007, **I.R.C.P. 45(b)** was amended as follows:

**Rule 45(b).** *Subpoena for production or inspection of documents, electronically stored information or tangible things, or inspection of premises. If the subpoena is for a party to attend a deposition, the scope and procedure shall comply with Rule 34, ~~except that~~ and the person party must be allowed at least 30 days to comply.\* \* \**

The order amending the rule can be found on the Supreme Court's website at: [http://www.isc.idaho.gov/ircp45\(b\).htm](http://www.isc.idaho.gov/ircp45(b).htm)

## Idaho Juvenile Rule 19 Amendments

Dealing with an 11 year old who harms others and is a threat to the community is an issue arising in many different scenarios within juvenile courts across the state. Cases like these represent some of the most difficult situations magistrate judges deal with. Invariably, the cases are very complex involving several agencies with different missions and resources.

Over the past two and a half years,

The Department of Juvenile

Corrections reports that the courts

have committed 25 juveniles age 10-12.

Currently DJC has 6 juveniles age 10-12 in their custody. In 2006 Idaho had 1,063 juveniles between the age of 0 and 13 on probation. National reports, which coincide with the experience of those in juvenile corrections and the social welfare agencies, indicate that institutionalizing a child at an early age will likely result in continued institutional placement for an extended period of time.

Based on the recommendations of the Idaho Juvenile Rules Committee, the Supreme Court determined to amend IJR 19 to provide another tool for magistrate judges to use prior to committing children of this age. Go to Rule IJR 19 at: <http://www.isc.idaho.gov/rules/ijr-407.pdf>

The pertinent part of the rule provides, "A juvenile under the age of twelve (12) years shall not be committed to the Department of Juvenile Corrections unless the magistrate finds that there are extraordinary circumstances; and the court has convened a screening team to evaluate alternatives to commitment. The screening team may consist of representatives of Juvenile Probation, Department of Juvenile Corrections, Department of Health and Welfare, education, prosecuting attorney, defense attorney and any other persons that the court may deem appropriate; provided the court may not commit a juvenile offender under the age of ten (10) years to the custody of the Department."

The screening team identifies other alternative resources rather than commitment to meet the objectives of the balanced approach. The balanced approach requires the judge to equally consider community protection, holding the juvenile accountable and developing competencies in the juvenile during sentencing.

Essentially, the screening team gives professionals who have information about the juvenile to meet and discuss the case. In some cases this may be the first time all agencies and the families or guardians have met. Once those professionals and the family have met and reported to the judge, sufficient information should be available for the court to determine an appropriate disposition of the juvenile's case.

Unfortunately juveniles under 12 years of age case will continue to come before the magistrate court. This new tool will provide judges more access to information so the best outcome can be reached about what to do with youthful offenders.



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We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

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Thanks!



Note: For the most up-to-date Judicial Calendar,  
check the Judiciary's homepage at  
<http://www.isc.idaho.gov/calendar.htm>

